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Medical malpractice trial begins in Chester County

The lawyers in Lathenia Petty's medical malpractice suit against her primary care doctor, radiologist and Pottstown Memorial Hospital made their opening arguments to the Chester County jury Tuesday morning.

Both sides agreed that Petty's death of breast cancer in February 2009 was tragic. The question for the jurors in Chester County is whether the series of events that resulted in an ultrasound test not getting to family doctor Heidi Weston's office was medical negligence and if so who was to blame.

Weston sent Petty for an ultrasound to check out a lump detected in her left breast in February 2005. Two months later, Petty had the diagnostic test performed at Pottstown and the radiologist there determined that she needed a biopsy to check for cancer. But his report and the ultrasound were faxed to an old number in the hospital's system.

Key issues for the jury will be whether Petty would have lived had her breast cancer been diagnosed in April 2005 and who, if anyone, was responsible for those ultrasound results not getting into Petty's file for more than a year.

In his opening statement, the lawyer for Petty's family, Thomas R. Kline, told the jury that when she finally had the biopsy on March 17, 2006, "she is not curable." Her options were limited to how long could the doctors preserve her life and what would the quality of that life be, Kline said.

Petty died on February 16, 2009. Kline said the jury would see video tape of Petty as she went through her care so they could determine if the multiple surgeries and chemotherapy and radiation treatments she underwent and what they did to her could have been avoided and what the value on that pain and suffering should be.

Lawyers representing Weston (and her practice which was owned by the University of Pennsylvania Health System), the radiologist, and Pottstown each argued that their client met the standard of care and thus should not be held liable in the case.

James A. Young, the lawyer for Weston and Penn, said that because the results of the tests that she prescribed never made it into Petty's file, she didn't follow up. And he noted that when in December 2005, Petty mentioned the lump was still there, the doctor directed her to find a surgeon and call if there was a problem. That never happened.

"Dr. Weston met the standard of care," Young told the jurors in his opening statement. "She did what she was supposed to do."

Likewise, lawyers for the radiologist and the hospital told the jury that while sad, the delay in Petty being diagnosed was not the fault of their clients. The trial is expected to run about a week.

An issue that the jurors won't hear any testimony about over the next week is whether problems such as old or incorrect fax numbers would be overcome if we had full fledged electronic medical records in this country. With such a system, Weston may have gotten an alert to follow up on her patient's suspicious lump during her subsequent office visits. Also such a system would likely enable a doctor to get test results automatically inserted into their patients' medical records with alerts to their presence. The current issue of the journal Health Affairs is devoted to health information technology.